

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

OTHON B. CALVILLO,

Petitioner,

v.

No. 2:21-cv-00892-KWR-SMV

LEA COUNTY DETENTION CENTER, *et al*,

Respondents.

ORDER OF DISMISSAL

THIS MATTER is before the Court following Petitioner Othon Calvillo's failure to prosecute his Letter Regarding Bribery and Conspiracy by a Public Official (Doc. 1) (Letter-Filing). Calvillo is a state prisoner proceeding *pro se*. The Letter-Filing alleges officials in the New Mexico Adult Probation Office solicit "donations" for "dirty UA's." Doc. 1 at 1-2. Said differently, the officials allegedly collect money from Calvillo each time his urine sample tests positive for drugs. The Letter-Filing includes correspondence to the State Ethics Commission reporting the "pay to play" system. *Id.* at 4. Calvillo asks the Court to "Please enforce our laws." *Id.* at 2. In a section of the Letter-Filing titled Remedy, he also cites New Mexico statutes and asks "to be given a new opportunity and new probation office." *Id.* at 6-7.

By an Order entered September 27, 2021, the Court directed Calvillo to amend his pleading to clarify the claims. *See* Doc. 2. The Order explained the difference between prisoner civil rights actions and habeas actions. *Id.* Calvillo was advised that he can seek relief under other laws, but he must allege a violation of federal law or the U.S. Constitution to establish a basis for federal jurisdiction. *See Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005). The Order also directed Calvillo to prepay the appropriate filing fee (\$402 for a civil action, \$5 for

a habeas action) or file an *in forma pauperis* motion. Calvillo was warned that if he fails to timely file an amended pleading that raises a federal question and address the filing fee, the Court will dismiss this case without further notice.

The deadline to comply was October 29, 2021. Calvillo did not amend his pleading, address the federal filing fee, or otherwise respond to the Order. The Court will therefore dismiss this action without prejudice pursuant to Fed. R. Civ. P. 41(b) for “failure to prosecute [and] comply with the ... court’s orders.” *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003).

IT IS ORDERED that Petitioner Othon Calvillo’s Letter Regarding Bribery and Conspiracy by a Public Official (**Doc. 1**) is **DISMISSED WITHOUT PREJUDICE**; and the Court will **ENTER** a separate judgment closing this civil case.

IT IS SO ORDERED.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE